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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,934	01/04/2002	Adam Chaney	1005-0015	8487
27045	7590	12/15/2004	EXAMINER	
ERICSSON INC. 6300 LEGACY DRIVE M/S EVR C11 PLANO, TX 75024			LE, DANH C	
			ART UNIT	PAPER NUMBER
			2683	

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/038,934

Applicant(s)

CHANEY, ADAM

Examiner

DANH C LE

Art Unit

2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-16 is/are allowed.
- 6) ☒ Claim(s) 1,2 and 7 is/are rejected.
- 7) ☒ Claim(s) 3-6,8 and 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/27/03</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

- 1. Claims 1, 2 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Schoenborn (US 6,498,838).**

**As to claim 1**, Schoenborn teaches a method of billing a call made by a user in a telecommunications network based on a reported traffic load in the network (figure 1 and col.2, line 35-col.3, line 23), said method comprising the steps of:

sending presence server the network, a registration message (user dial a code to destination network) from at least one Media Gateway Control Function (exchange 3, 4, 9), said registration message including a traffic load for the MGCF;

determining a billing rate for the user based on the traffic load reported by the MGCF (traffic measurement unit 2, 2'); and

applying the determined billing rate to the call to calculate a charge for the call (rate calculator).

**As to claim 2**, Schoenborn inherently teaches the method of billing a call of claim 1 further comprising the steps of registering in the network, a user who subscribes to network-load based billing service and sending from the presence server to the user, an indication of the traffic load reported by the MGCF (col.5, lines 6-23).

**As to claim 7**, Schoenborn teaches the method of billing a call of claim 1 wherein the step of applying the determined billing rate to the call to calculate a charge for the call includes calculating a charge for the call based on the determined billing rate and parameters of the call relating to network resource usage (col.4, line 14-col.5, line 5).

***Allowable Subject Matter***

Claims 3-6, 8-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As to claim 3, the prior art fails to teach the network utilizes Session Initiation Protocol (SIP) control signaling for call setup and call control, and the step of sending a registration message from at least one MGCF to a presence server in the network, includes modifying a SIP REGISTER message to include traffic load information for the MGCF; and sending the SIP REGISTER message from the MGCF to the presence server.

Dependent claims 4-6 are allowable for the same reason.

As to claims 8 and 9, the prior art fails to teach the method of billing a call of claim 7 wherein the billing rate is expressed as a cost per unit time, and the step of calculating a charge for the call based on the determined billing rate and parameters of the call relating to network resource usage includes determining a duration of the call and multiplying the duration of the call by the determined billing rate, determining a volume of data transferred during the call and multiplying the volume of data transferred during the call by the determined billing rate.

Claims 10-16 are allowed.

As to claim 10, the prior art fails to teach sending an update of the traffic load from the MGCF to the presence server whenever the traffic load of the MGCF changes by a threshold amount; registering in the network, a user who subscribes to a network-load based billing service, sending from the presence server to the user, an indication of the current traffic load reported by the MGCF, sending the reported traffic load from the presence server to a billing node when the user places the call, determining by the billing node, a billing rate for the user based on the traffic load reported by the presence server.

Dependent claims 10, 11 are allowable for the same reason.

As to claim 13, the prior art fails to teach a presence and instant messaging (PIM) server that receives the registration information from the MGCF and sends the reported traffic load to a billing node, a Call State Control Function (CSCF) that determines parameters of the call relating to network resource usage and sends the parameters to the billing node; and a billing node that determines a billing rate based on

the reported traffic load and calculates a charge for the call based on the determined billing rate and the parameters relating to network resource usage.

Dependent claims 14, 15 are allowable for the same reason.

As to claim 16, the prior art fails to teach means for receiving the registration information from the data controlling means and sending the reported traffic load to a billing means, means for setting up and controlling the call, said call setup and control means including means for determining parameters of the call relating to network resource usage and sending the parameters to the billing means and billing means for determining a billing rate based on the reported traffic load and calculating a charge for the call based on the determined billing rate and the parameters relating to network resource usage.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A. Hayball et al (US 6,356,627) teaches communication architecture, apparatus and management and signaling method therein.

B. Nolting et al (US 6,721,405) teaches interconnect traffic analysis.

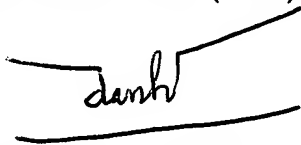
C. O'Brien (US 6,111,946) teaches method and system for providing answer supervision in a switched telephone network.

D. Channey et al (US 2003/0108000) teaches service access system and method in a telecommunications network.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANH C LE whose telephone number is 703-306-0542. The examiner can normally be reached on 8:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, WILLIAM TROST can be reached on 703-308-5318. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'danh', is written over a horizontal line.

December 11, 2004

DANH CONG LE  
PATENT EXAMINER